

for a curvature travel along a curve." Moreover, the Examiner admits that Schirmer does not teach a yaw rate sensor. Given these deficiencies in Schirmer, the Examiner cannot maintain that all of the claim limitations are identically met by this reference. Therefore, Schirmer does not anticipate claim 1. Withdrawal of this rejection is thus requested.

Notwithstanding the above, even if Schirmer taught these limitations discussed above, it would still fail to anticipate the claims. In particular, claims 12 and 23 recite "a control system including an arrangement for, during travel on a straight road, using an algorithm to ascertain a misalignment angle of the sensor element... ." (Emphasis added). Schirmer does not anticipate the control system recited in the claims because the system of Schirmer is designed to adjust the beam characteristic of a vehicle-mounted distance sensor while the vehicle is stationary with respect to adjustment apparatus 200, not during the vehicle's travel on a straight road. In particular, the beam characteristic adjustment in Schirmer is carried out by apparatus 200, which is not mounted on the vehicle but is instead separate therefrom. Before apparatus 200 performs this adjustment, the vehicle must be precisely positioned in an exact position in front of apparatus 200. The requirement that the apparatus 200 performs the adjustment during the time the motor vehicle is stationary in front of apparatus 200 is shown in the following portions of the patent: "In first step 71, motor vehicle 11 having distance sensor 10 is parked in front of positioning apparatus 13" (Column 5, lines 28-29); "In this case as well, the motor vehicle is then located with its longitudinal axis at a known angle to a selectable reference line. An axle alignment stand, known per se, for motor vehicles can also be used to position the motor vehicle" (Column 4, lines 20-24); "In the next step 72, the motor vehicle and/or the positioning apparatus...is exactly positioned with the aid of a particular arrangement...Distance sensor 10 is then put into operation." (Column 5, lines 33-36, lines 58-59). Since apparatus 200 is capable of adjusting the beam characteristic of distance sensor 10 only when the vehicle on which sensor 10 is mounted is maintained in a stationary position in front of apparatus 200, Schirmer does not teach "a control system including an arrangement for, during travel on a straight road, using an algorithm to ascertain a misalignment angle of the sensor element... ." (Emphasis added). Accordingly, withdrawal of this rejection is respectfully requested.

As the Examiner evaluates the merits of Applicants' reply to this rejection, the Examiner is respectfully reminded that Schirmer is not available as a § 103(a) reference against these claims. That is because under § 103(c), if a reference qualifies under prior art only under § 102(e), which is the case here, and if the reference and the application are commonly owned by the same person or entity, which is also the case here since both are owned by Robert Bosch GmbH, the reference "shall not preclude patentability under this section [i.e., section 103]" (insertion added).

Applicants assert that the present invention is new, non-obvious, and useful. Consideration and allowance of the claims are requested.

Respectfully submitted,

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